

1 **ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS**

2 In the Matter of the Money Transmitter License of: No. 06F- 071 -SBD

3 **INTERNATIONAL MONEY**
4 **TRANSMISSIONS SYSTEMS, INC. and**
5 **MARIO A. CRUZ, PRESIDENT AND CEO**
 3530 Wilshire Boulevard, #1335
 Los Angeles, California 90010

**ORDER TO CEASE AND DESIST;
NOTICE OF OPPORTUNITY FOR
HEARING; CONSENT TO ENTRY OF
ORDER**

6 Respondents.

7
8 The Superintendent of Financial Institutions for the State of Arizona (the "Superintendent"),
9 makes the following Findings of Fact and Conclusions of Law and enters the following Order
10 pursuant to Arizona Revised Statutes ("A.R.S.") § 6-137.

11 Pursuant to Titles 6 and 41 of the Arizona Revised Statutes and Title 20, Chapter 4 of the
12 Arizona Administrative Code ("A.A.C."), Respondents are hereby notified that they are entitled to a
13 hearing to contest the allegations set forth in this Order. The Request for Hearing shall be filed with
14 the Arizona Department of Financial Institutions (the "Department") pursuant to A.R.S. § 6-137(D)
15 within thirty (30) days of service of this Order and shall identify with specificity the action or order
16 for which review is sought in accord with A.R.S. § 41-1092.03(B).

17 Pursuant to A.R.S. §§ 41-1092.01(D) and 41-1092.03(B), any person may appear on his or
18 her own behalf or by counsel. If Respondents are represented by counsel, the information required
19 by A.R.S. § 41-1092.03(B) shall be included in the Request for Hearing. Upon the filing of a
20 Request for Hearing, the Department shall issue a Notice of Hearing scheduling the matter for
21 hearing in accordance with A.R.S. § 41-1092.05. Persons with disabilities may request reasonable
22 accommodations such as interpreters, alternative formats, or assistance with physical accessibility.
23 Requests for special accommodations must be made as early as possible to allow time to arrange the
24 accommodations. If accommodations are required, call the Office of Administrative Hearings at
25 (602) 542-9826.

26 ...

1 If Respondents request a hearing, a request may also be made for an Informal Settlement
2 Conference by filing a written request no later than twenty (20) days before the scheduled hearing.
3 The conference will be held within fifteen (15) days after receipt of your request. If an Informal
4 Settlement Conference is requested, a person with the authority to act on behalf of the Department
5 will be present (the "Department Representative"). Please note that in requesting an Informal
6 Settlement Conference, Respondents waive any right to object to the participation of the Department
7 Representative in the final administrative decision of this matter, if it is not settled. In addition, any
8 written or oral statement made by Respondents at such informal settlement conference, including
9 written documentation created or expressed solely for purposes of settlement negotiations, are
10 inadmissible in any subsequent administrative hearing. (See A.R.S. § 41-1092.06 for rules regarding
11 informal settlement conferences.) Conversely, any written or oral statement made by Respondents
12 outside an Informal Settlement Conference is not barred from being admitted by the Department in
13 any subsequent hearing.

14 If Respondents do not request a hearing to contest the allegations set forth below, or if after
15 hearing the Superintendent affirms the following Findings of Fact and Conclusions of Law, the
16 Superintendent may affirm his Order commanding Respondents to cease and desist their illegal
17 actions and to take affirmative action to correct the conditions created by the violative conduct
18 pursuant to A.R.S. § 6-137 and to pay a civil money penalty pursuant to A.R.S. § 6-132.

19 FINDINGS OF FACT

20 1. Respondent International Money Transmissions Systems, Inc. ("IMTS") is a
21 California corporation authorized to transact business in Arizona as a money transmitter, license
22 number MT# 0903856, within the meaning of A.R.S. § 6-1201 *et seq.* The nature of IMTS' business
23 is that of receiving money for the transmission of or transmitting money within the meaning of
24 A.R.S. § 6-1201(11)(b).

25 2. Respondent Mario A. Cruz ("Mr. Cruz") is the president and CEO of IMTS. Mr.
26 Cruz is authorized to transact business in Arizona as a money transmitter within the meaning of

1 A.R.S. § 6-1201 *et seq.*

2 3. On August 15, 2005, the Department began an examination of IMTS' business
3 affairs. As a result of the examination, the Department discovered that IMTS and Mr. Cruz:

4 a. failed to comply with license renewal requirements by failing to timely apply
5 for renewal and pay a renewal fee to the Superintendent by November 1, 2003, resulting in
6 license suspension for a period of two (2) days, and failing again to apply for renewal and
7 pay a renewal fee by November 1, 2004, resulting in a license suspension for a period of
8 eleven (11) days, during which suspension the licensee conducted four (4) transactions
9 totaling seven thousand dollars (\$7,000.00) and collected transaction fees of two hundred
10 fifty-eight dollars (\$258.00);

11 b. failed to display prominently authorized delegate notices as prescribed by the
12 Superintendent at each authorized delegate location;

13 c. failed to file within forty-five days after the end of each fiscal quarter, a list of
14 all authorized delegates that have been added or terminated within that quarter, including at
15 least three authorized delegates that were no longer operating;

16 d. failed to provide each authorized delegate with operating policies and
17 procedures sufficient to permit compliance by each authorized delegate with the provisions
18 of Title 13, Chapter 23, and Title 6, Chapter 12 of the Arizona Revised Statutes;

19 e. failed to file quarterly reports within forty-five days after the end of each
20 fiscal quarter, specifically: the reports for the quarters ending 09/30/03, 12/31/03, 9/30/04,
21 12/31/04 and 3/31/2005 were received late;

22 f. failed to complete and file the required report for transactions totaling ten
23 thousand dollars (\$10,000) or more with the Arizona Attorney General the information
24 required by 31 U.S.C. § 5331 and the federal regulations relating to A.R.S. § 6-1241;

25 g. failed to create records containing all required identifying information relating
26 to transactions in the amount of one thousand dollars (\$1,000) or more, including multiple

1 transactions which were missing the customer's correct address, ID number and type,
2 occupation, and SSN/TIN;

3 h. failed to maintain an updated policies and procedures manual to include the
4 changes in Arizona transmitters of money statutes passed into law in 2002 as required by
5 A.R.S. § 6-1208(B), to promote compliance with Title 13, Chapter 23, and Title 6,
6 Chapter 12 of the Arizona Revised Statutes and 31 U.S.C. § 5318, specifically: failed to
7 provide proof of any policies and procedures manual regarding transactions conducted;

8 i. failed to institute a policy regarding the acceptance of anything of value or
9 "tips" in connection with any money transmission as set forth in A.R.S. § 13-2317(C)(1);
10 and

11 j. made false entries of nonexistent Social Security Numbers on customer
12 transaction records that are filed or required to be maintained or filed under Title 6,
13 Chapter 12, on a continual basis, as evidenced by records provided by the Licensee that show
14 multiple entries listing Social Security Numbers as "111111111" or "000000000" for
15 multiple persons in at least thirty-three (33) transactions during July 2004 through May 2005.

16 4. These Findings of Facts shall also serve as Conclusions of Law.

17 CONCLUSIONS OF LAW

18 1. Pursuant to A.R.S. § 6-1201 *et seq.* the Superintendent is charged with the duty to
19 regulate all persons engaged in the money transmitter business and with the enforcement of statutes,
20 rules and regulations relating to money transmitters.

21 2. By the conduct set forth in the Findings of Fact, IMTS and Mr. Cruz violated statutes
22 and rules governing money transmitters as follows:

23 a. A.R.S. § 6-1206(C) by failing to comply with the requirements of license
24 renewal for a period of two consecutive years, 2003 and 2004;

25 b. A.R.S. § 6-1207(C) by failing to display prominently authorized delegate
26 notices as prescribed by the Superintendent at each authorized delegate location;

1 c. A.R.S. §§ 6-1207(D) and 6-1211 by failing to file within forty-five days after
2 the end of each fiscal quarter, a list of all authorized delegates that have been added or
3 terminated within that quarter;

4 d. A.R.S. § 6-1208(B) by failing to provide each authorized delegate with
5 operating policies and procedures sufficient to permit compliance by each authorized
6 delegate with the provisions of Title 13, Chapter 23, and Title 6, Chapter 12 of the Arizona
7 Revised Statutes;

8 e. A.R.S. § 6-1211 by failing to file quarterly reports within forty-five days after
9 the end of each fiscal quarter;

10 f. A.R.S. § 6-1241(C) by failing to complete and file the required report for
11 transactions totaling ten thousand dollars (\$10,000) or more with the Arizona Attorney
12 General the information required by 31 U.S.C. § 5331 and the federal regulations relating to
13 A.R.S. § 6-1241;

14 g. A.R.S. § 6-1241(E) by failing to create records containing all required
15 identifying information relating to transactions in the amount of one thousand dollars
16 (\$1,000) or more;

17 h. A.R.S. § 6-1241(G) by failing to maintain an updated policies and procedures
18 manual to include the changes in Arizona transmitters of money statutes passed into law in
19 2002 as required by A.R.S. § 6-1208(B), to promote compliance with Title 13, Chapter 23,
20 and Title 6, Chapter 12 of the Arizona Revised Statutes and 31 U.S.C. § 5318;

21 i. A.R.S. §§ 6-1208(B) and 13-2317(C)(1) by failing to institute a policy
22 regarding the acceptance of anything of value or "tips" in connection with any money
23 transmissions; and

24 j. A.R.S. § 13-2317(B)(4) by making false entries of nonexistent Social Security
25 Numbers on customer transaction records that are filed or required to be maintained or filed
26 under Title 6, Chapter 12, on a continual basis.

3. The violations set forth above constitute grounds for (1) the issuance of an order pursuant to A.R.S. § 6-137 directing Respondents to cease and desist from the violative conduct and to take the appropriate affirmative actions, within a reasonable period of time prescribed by the Superintendent, to correct the conditions resulting from the unlawful acts, practices, and transactions, and (2) the imposition of a monetary civil penalty pursuant to A.R.S. § 6-132.

ORDER

1. IMTS and Mr. Cruz shall correct all violations set forth in the Findings of Fact and in the Report of Examination. IMTS and Mr. Cruz shall:

a. comply with the requirements of license renewal including submission of renewal application and payment of the renewal fee on or before November 1 of each year, and shall not conduct transactions during any period of license suspension;

b. display prominently authorized delegate notices as prescribed by the Superintendent at each authorized delegate location, and request a duplicate authorized delegate notice if any such notice has been lost;

c. immediately notify the Superintendent of the change of address of the principal place of business or any branch location and file within forty-five days after the end of each fiscal quarter, a list of all authorized delegates that have been added or terminated within that quarter;

d. provide each authorized delegate with operating policies and procedures sufficient to permit compliance by each authorized delegate with the provisions of Title 13, Chapter 23, and Title 6, Chapter 12 of the Arizona Revised Statutes and shall include a current copy of said statutes as an appendix to contracts with all authorized delegates;

e. file quarterly reports within forty-five days after the end of each fiscal quarter as prescribed by A.R.S. § 6-1211;

f. complete and file the required report for transactions totaling ten thousand dollars (\$10,000) or more with the Arizona Attorney General the information required by 31

1 U.S.C. § 5331 and the federal regulations relating to A.R.S. § 6-1241;

2 g. create and maintain records containing all required identifying information
3 relating to transactions in the amount of one thousand dollars (\$1,000) or more;

4 h. maintain an updated policies and procedures manual to include the changes in
5 Arizona transmitters of money statutes passed into law in 2002 as required by A.R.S.
6 § 6-1208(B), to promote compliance with Title 13, Chapter 23, and Title 6, Chapter 12 of the
7 Arizona Revised Statutes and 31 U.S.C. § 5318;

8 i. institute a policy regarding the acceptance of anything of value or "tips" in
9 connection with any money transmissions as set forth in A.R.S. § 6-2317(C)(1);

10 j. cease making false entries of any kind on customer transaction records that are
11 filed or required to be maintained or filed under Title 6, Chapter 12, on a continual basis.

12 2. IMTS and Mr. Cruz shall pay a civil money penalty in the amount of fifteen thousand
13 dollars (\$15,000.00). IMTS and Mr. Cruz are jointly and severally liable for payment of the civil
14 money penalty.

15 3. The provisions of this Order shall be binding upon IMTS and Mr. Cruz, their
16 employees, agents and other persons participating in the conduct of the affairs of IMTS.

17 4. This Order shall become effective upon service, and shall remain effective and
18 enforceable until such time as, and except to the extent that, it shall be stayed, modified, terminated
19 or set aside.

20 SO ORDERED this 24th day of January, 2006.

21 Felecia A. Rotellini
22 Superintendent of Financial Institutions

23 By Bruce Tunell
24 Bruce Tunell
25 Deputy Superintendent of Financial Institutions
26

CONSENT TO ENTRY OF ORDER

1. Respondents acknowledge that they have been served with a copy of the foregoing Findings of Fact, Conclusions of Law, and Order in the above-referenced matter, have read the same, are aware of their right to an administrative hearing in this matter, and have waived the same.

2. Respondents admit the jurisdiction of the Superintendent and consent to the entry of the foregoing Findings of Fact, Conclusions of Law, and Order.

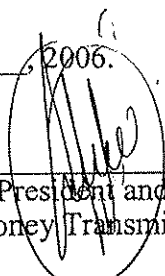
3. Respondents state that no promise of any kind or nature has been made to induce them to consent to the entry of this Order, and that they have done so voluntarily.

4. Respondents acknowledge that the acceptance of this Agreement by the Superintendent is solely to settle this matter and does not preclude this Department, any other agency or officer of this state or subdivision thereof from instituting other proceedings as may be appropriate now or in the future.

5. Mario A. Cruz, signing on behalf of International Money Transmission Systems, Inc., represents that he is the President and CEO and as such, has been authorized by International Money Transmission Systems, Inc. consent to the entry of this Order on its behalf.

6. Respondents waive all rights to seek judicial review or otherwise to challenge or contest the validity of this Cease and Desist Order.

DATED this 30 day of March, 2006.

By: 
Mario A. Cruz, President and CEO
International Money Transmission Systems, Inc.

ORIGINAL of the foregoing filed this 24th day
of January, 2006, in the office of:

Felecia A. Rotellini
Superintendent of Financial Institutions
Arizona Department of Financial Institutions
ATTN: June Beckwith
2910 N. 44th Street, Suite 310
Phoenix, AZ 85018

1 COPY mailed same date to:

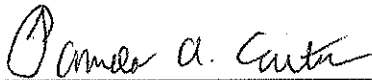
2 Craig A. Raby
3 Assistant Attorney General
4 Office of the Attorney General
1275 West Washington
Phoenix, AZ 85007

5 Robert D. Charlton, Assistant Superintendent
6 Ramon L. Lopez-Ortiz, Senior Examiner
7 Arizona Department of Financial Institutions
2910 N. 44th Street, Suite 310
Phoenix, AZ 85018

8 AND COPY MAILED SAME DATE by
9 Certified Mail, Return Receipt Requested, to:

10 Mario A. Cruz, President and CEO
11 International Money Transmissions Systems, Inc.
3530 Wilshire Boulevard, #1335
Los Angeles, CA 90010
12 Respondents

13 Carmen Sierra, Statutory Agent for
14 International Money Transmissions Systems, Inc.
8903 N. 7th Street
Phoenix, AZ 85070

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16 932794; CPA05-354